1941 **File No.** B Industrial Disputes | 41

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Legal **DEPARTMENT**

B **BRANCH**

Subject:— ~~Governor's Bill of~~

Governor's Bill No XII 1941.

A Bill to amend the

Bombay Industrial Disputes Act 1938

(amend of ss 53, 62 and 63 and insertion of new Sec 49-A)

P.I.B

Bom X of 1941

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Std. Sectt. Slip 24 B a.

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C_ON_TENTS

Legal Department File No. 1.

Sr. No.	Compilation No.	Subject	Pages
		A Bill to amend B'bay Industrial Disputes Act, 1938.	
1)	O. No. 239_confl. 5_5_41. O. No. 4882 27_5_1941.	Sec. 53 (6), 62 & 63 Amendments of	1, 3, 5.
		Governor's Assent to the Bill	5.
2)	GRID No. 4931 29/5/41.	GR for publication in the B'bay Govt. Gazette.	9.
3)	O. No. 4932 29/5/41	Sec. 92 (1) Notification under.	9, 13.

Office of the R. L. A.

The main draft Bill will be sent to the Political and Services Department within 4 or 5 days. As a bill providing for making arbitration compulsory is required immediately, a draft Bill for the purpose is sent herewith.

2. The proposed new section providing for the compulsory arbitration should more appropriately be numbered as section 49A of the Act. Consequential changes are necessary in section 53(6), section 62 and section 63 of the Act. The draft Bill provides for these changes.

3. The Bill relates to entry 29 of the Concurrent Legislative List in the Government of India Act, 1935. Under executive instructions the Bill requires the previous approval of the Governor General. None of the provisions of the Bill is repugnant to the provisions of any existing Indian law and the Bill therefore does not required to be reserved for the consideration of the Governor General, with reference to section 107(2) of the Government of India Act.

o/o
sd/-
Remembrancer of Legal Affairs.

U. O. to the P & S. D. No. 239-33rd confl. dated the 5th May,41.

MRR.

D. O. No. 4882,
Legal Department.

Bombay Castle, 27th May, 1941.

Dear

Will you please refer to my D. O. Letter No.4834, dated 26th May 1941?

2. The amendment made in section 62(1) of the Industrial Disputes Act, 1938, by the original clause 4 of the draft Bill sent to Political and Services Department with H. L. A's No. 239-Confl, dated 5th May 1941, provided that a strike shallbe illegal if it is commenced or continued in cases where an industrial dispute has been referrred to the arbitration of the Industrial Court under section 49A, before the arbitration proceedings are completed. Section 50(2) provides that on the receipt of the award the Registrar shall enter it in a register opt for the purpose and shall publish it in the Official Gazette. According to section 52 of the Act, the aribitration proceedings are to be deemed to have been completed when the award is published under section 50. According to section51 of the Act, however, the award comes into operation on the date stated in the award or when no such date is stated therein on the date on which it is registered under section 50. It would therefore be possible for an award to come into force after the date on which it is published i. e. after the date on which the arbitration proceedings are to be deemed to have been completed and insuch cases if a strike is commenced or continued during the interval of time between the date of the coming into force of the award and the date of its ~~xhkk~~ publication under section50, it would not be illegal. To provide for such cases, the original draft of clause(ff) of section 62(1) of the Act in clause 4 of the Bill was amended by substituting for the words"until the arbitration proceedin-

proceedings are completed" the words "until the date on which the arbitration proceedings are completed or the date on which the award of the Industrial Court comes into operation whichever is later." A similar change, for the same reasons, was made by clause 5 of the Bill in section 63(1) of the Act which provides for lock-outs being illegal under the circumstances specified in the section. These changes have been already included by us in the Omnibus Bill containing other amendments sent to the Political and Services Department with G. L. A's U. O. No. to Political and Services Department, No. 4344, dated 12th May 1941.

Yours,

sd/-

J. M. Irwin, Esq., O. B. E., M. C. S.,
Secretary to the Governor,
Government House, Malabar Hill,

BOMBAY.

No. 201 (31)

Office of the Governor's Secretary,
Government House,
Bombay 27th May 1941.

From

J. B. Irwin Esq., B. A., O. B. E., I. C. S.,
Secretary to the Governor of Bombay.

To

The Secretary to Government,

Legal Department, Bombay.

Subject: A Bill to amend the Bombay Industrial Disputes Act, 1938.

Sir,

I am directed to forward herewith a copy of a Bill to amend the Bombay Industrial Disputes Act, 1938, prepared by His Excellency the Governor under paragraph(2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, and to say that under the provisions of the aforesaid paragraph His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

2. His Excellency the Governor General has concurred in the enactment of the Bill by His Excellency the Governor.

I have the honour to be,

Sir,

Your Most Obedient Servant,

sd/-

Secretary to the Governor of B'bay.

MTR.

Acts.

Publication of the Bombay Industrial Disputes (Amendment)

Government of BOMBAY.
Legal Department.
Resolution No. 4931.

Bombay Castle, 29th May 1941.

Letter from the Secretary to the Governor, No. 201(31), dated the 27th May 1941:-

" I am directed to forward herewith a copy of a Bill to amend the Bombay Industrial Disputes Act, 1938, prepared by His Excellency the Governor under paragraph(2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, and to say that under the provisions of the aforesaid paragraph, His Excellency the governor is pleased to declare that he assents to the Bill in the Name of His Majesty.

2. His Excellency the Governor General has concurred in the enactment of the Bill by His Excellency the Governor."

RESOLUTION. The law should be published as Bombay Act, No. of 1941, in the Bombay Government Gazette, dated the 29th May, 1941.

2. The act should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devnagari Scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Political and Services Department.

By order of the Governor of Bombay,

sd/-
P. N. Moos,
for Secretary to Government.

To,

The Manager, Government Central Press, Bombay (With a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).
The Political and Services Department,
The Oriental Translator to Government,
The Secretary to the Bombay Legislative Council,
The Secretary to the Bombay Legislative Assembly. } With a copy of the Act.

With five extra copies.

MMR.

Legal Department.

The Bombay Industrial Disputes(Amendment)Bill has received the assent of the Governor on the 27th May 1941 and it will be published as Bombay Act No. X. of 1941 in the Bombay Government Gazette dated the 29th May 1941.

2. Draft notification under section 92(1) of the Government of India Act, 1935, for applying the Act to the partially excluded areas in the Province is furnished herewith to the Political and Services Department.

sd/-

For Secretary to Government.

U. R. to P. & S. D. No 4932 dated the 29th May 1941.

NOTIFICATION

Political and Service Department.

Bombay Castle, May 1941.

No. :- In exercise of the powers conferred by sub-section(1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Industrial Disputes (Amendment) Act, 1941,(Bom.X of 1941) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Chief Secretary to Government.

BOMBAY ACT No. X OF 1941.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 29th May 1941.)

An Act to amend the Bombay Industrial Disputes Act, 1938.

Bom. XXV of 1938.

WHEREAS it is expedient to amend the Bombay Industrial Disputes Act, 1938, for the purpose hereinafter appearing;

26 Geo. 5, Ch. 2.

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

Short title.

1. This Act may be called the Bombay Industrial Disputes (Amendment) Act, 1941.

Bom. XXV of 1938.

Insertion of new section 49 A in Bom. XXV of 1938.

2. After section 49 of the Bombay Industrial Disputes Act, 1938, hereinafter called the said Act, the following new section shall be inserted, namely :—

Provincial Government may refer an industrial dispute to the Industrial Court for arbitration.

"49A. Notwithstanding anything hereinbefore contained, the Provincial Government may, at any time, refer any industrial dispute to the arbitration of the Industrial Court, if it is satisfied that—

(*1*) a serious outbreak of disorder or a breach of the public peace is likely to occur, or

(*2*) serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the industrial dispute; or

(*3*) the industry concerned is likely to be seriously affected and the prospects and scope for employment curtailed as a result of the continuance of the industrial dispute."

Amendment of section 53 of Bom. XXV of 1938.

3. To clause (*6*) of section 53 of the said Act, the word, figures and letter " or 49A " shall be added.

Amendment of section 62 of Bom. XXV of 1938.

4. In sub-section (*1*) of section 62 of the said Act—

(*1*) in clause (*f*) the word " or " at the end shall be deleted; and

(*2*) after clause (*f*) the following new clause shall be inserted, namely:—

" (*ff*) in cases where an industrial dispute has been referred to the arbitration of the Industrial Court under section 49A, before or until the date on which the arbitration proceedings are completed, or the date on which the award of the Industrial Court comes into operation, whichever is later; or ".

Amendment of section 63 of Bom. XXV of 1938.

5. In sub-section (*1*) of section 63 of the said Act—

(*1*) in clause (*e*) the word " or " at the end shall be deleted; and

(*2*) after clause (*e*), the following new clause shall be inserted, namely:—

" (*ee*) in cases where an industrial dispute has been referred to the arbitration of the Industrial Court under section 49A, before or until the date on which the arbitration proceedings are completed or the date on which the award of the Industrial Court comes into operation, whichever is later; or ".

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 27th May 1941, is hereby published for general information.

P. N. MOOS,

Secretary to the Government of Bombay,
Legal Department.